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OFFICE OF PETITIONS

In re Application of	:	
Hallisey, et al.	:	
Application No. 10/673,834	:	ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. 200208211-1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative to revive under 37 CFR 1.137(a), filed May 29, 2008.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED** as moot.

The application was held abandoned due to failure to timely file a reply to the non-final Office action mailed September 5, 2007. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on December 6, 2007. The Office mailed a Notice of Abandonment on March 18, 2008.

To establish nonreceipt of an Office action, a petitioner must:

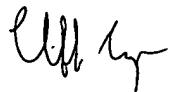
- 1) include a statement that the Office action was not received;
- 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and
- 3) include a copy of the docket record where the nonreceived Office

action would have been entered had it been received and docketed.¹ A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."² "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."³

With the instant petition, petitioner has submitted a copy of a proper docket report, showing all of his replies docketed for the due date from the time period of September 5, 2007 to December 5, 2007. An entry for the instant application is absent, supporting the conclusion that the Notice of Allowance was not received. In addition, petitioner has stated that the Office action was not received, and attested to the fact that he searched the file jacket and docket records.

The matter is being forwarded to Group Art Unit 2179 for re-mailing of the September 5, 2007 Office action, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

¹ See MPEP 711.03(c)(II).

² MPEP 711.03(c)(II) (emphasis added).

³ Id.